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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,033	04/09/2001	Frank Venegas JR.	IDS-14302/14	8392

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EXAMINER

SAWHNEY, HARGOBIND S

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 05/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

09/829,033

Applicant(s)

VENEGAS, FRANK

Examiner

Hargobind S Sawhney

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1-11 are objected to because of the following informalities:

Regarding Claim 1, the preamble "a lighted stanchion cover" is not consistent with those of the claims 2-6 which are dependent on Claim 1. the preamble of Claim 1 as well as claims 7-11 should be revised as -- the lighting system --.

Regarding Claim 9, line 1, "is" should be revised as -- including --.

Appropriate correction is required.

Claims 2-11 are necessarily objected because of their dependency on the objected base Claim 1.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the body" in line 7. There is insufficient antecedent basis for this limitation in the claim. Similar deficiency exist each of claims 7-10. this limitation " the body should be revised as – the tubular body – to make it consistent with the limitation recited in the independent Claim 1.

Claims 2-11 are necessarily rejected because of their dependency on the rejected base Claim 1.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,5,6 rejected under 35 U.S.C. 102(b) as being anticipated by Moore (U.S. Patent No. 5,121,307).

Regarding claims 1,5 and 6, Moore discloses a lighted assembly 10 (Figure 4, column 2, line 18) comprising:

- an elongated tubular body 11 having an open end 12, and a closed end 15 defining a cavity – enclosed by element 18 – (Figure 4);
- the open end 12 of the cavity receiving the stanchion (Figures 1 and 4); a lighted assembly 10 (Figure 4, column 2, line 18) having a light source 17

(Figure 4, column 2, line 23) interconnected to a battery 22 (Figure 4, column 2, line 36);

- the light source 17 secured relative to the tubular body 11, and being visible exteriorly of the interior cavity (Figures 1 and 4;
- the lighted assembly 10 further comprising a plurality of photovoltaic devices 28 (Figure 4, column 2, line 50) supported by the elongated tubular body 11 (Figures 1 and 4);

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-4, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (U.S. Patent No. 5,121,307).

Regarding claims 2-4, Moore discloses a lighted assembly 10 (Figure 4, column 2, line 18) further comprising:

- an electronic circuit (Figures 1, 3 and 4) managing and controlling power for the device; and

- the lighted assembly 10 further having a light source receptacle (not shown) receiving the lamp 17;

However, Moore does not disclose a lighted assembly 10 including a power source positioned external to the lighted stanchion cover. Instead, Moore teaches positioning of the power source within the cavity defined by the cover and the stanchion external wall (Figure 4). It would be have been obvious to one of ordinary skill in the art at the time of the invention to relocate the power source – batteries – external to the cavity, since it has been held that rearranging parts of an invention involves only routine skill in the art.

Regarding claims 7 and 8, Moore does not disclose a lighted assembly 10 (Figure 4, column 2, line 18) comprising a stanchion with a cover displaying a message formed with stenciled letters.

It would have been an obvious matter of design choice to paint a message with stenciled letters on the tubular cover, since the applicant has not disclosed that painting a message on the cover solves any problem or is for a particular reason. It appears that the claimed invention would perform equally well with a cover having a message painted on its external surface.

8. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (U.S. Patent No. 5,121,307) in view of Padilla et al. (U.S. Patent No. 5,121,307).

Regarding claims 9-11, Moore does not disclose a lighted assembly comprising a cover having a tubular body including one or more light dispersing windows, and a message displayed with a plurality of light diodes further comprising.

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On the other hand, Padilla teaches a lighting device 10 (Figure 1) comprising a tubular body 12 (Figures 1,5 and 6, column 4, lines 24-27) comprising a plurality of light emitting diodes (LEDs) 16 (Figures 1,5 and 6, column 4, line 29) emitting light through a plurality of light dispersing windows. In addition Padilla teach the light emitting diodes 16 being supported by the thickness of the tubular body of the cover 12 (Figures 7 and 8)

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the tubular cover of the lighted assembly of Moore with the tubular body taught by Padilla for benefits and advantages of eye- catching displays, and for traffic safety in dark.

### ***Allowable Subject Matter***

9. Claim 12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

The prior art of record, including Moore (U.S. Patent No. 5,121,307) and Padilla et al. (U.S. Patent No. 5,121,307), fails to show or suggest the applicant's invention as claimed. Specifically, the prior art of record does not disclose proper motivation for combining the following features for a lighted stanchion cover recited in claim 12.

- The body of the cover having a second cavity defined by the inner and outer surfaces and the thickness; and
- The second cavity encapsulating a photo-luminescent mixture.

**Conclusion**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

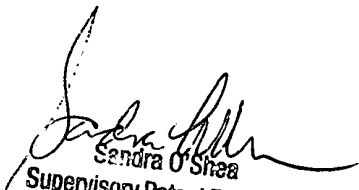
Carne (U.S. Patent No. 6,158,881), Abtahi et al. (U.S. Patent No. 5,890,794) and Janko (U.S. Patent No. 4,924,362) each discloses a lighting apparatus comprising some of the claimed features including a plurality of light sources, a power source, a plurality of light dispersing windows and a tubular cover.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hargobind S, Sawhney whose telephone number is 703-306-5909. The examiner can normally be reached on 7:30 - 5:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 703-305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7724 for regular communications and 703-308-8303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2956.

HSS 5/24/2002

  
Sandra O'Shea  
Supervisory Patent Examiner  
Technology Center 2800